



**Computer & Communications
Industry Association**
Tech Advocacy Since 1972

July 30, 2014

The Honorable Penny Pritzker
Secretary of Commerce
United States Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

The Honorable Michelle Lee
Deputy Director
United States Patent and Trademark Office
401 Dulany Street
Alexandria, VA 22314

Dear Secretary Pritzker and Deputy Director Lee:

The patent system plays an important role in promoting innovation in the United States. Patents encourage investment in R&D and facilitate technology transfer. But when patent assertion entities (PAEs), commonly called patent trolls, exploit low-quality patents to extort payments from America's most productive companies and job providers, they harm innovation and the very purpose of the patent system. The solution to this problem is two pronged: the Patent and Trademark Office (PTO) must improve the quality of the patents it issues, and Congress must pass patent reform legislation so that PAEs cannot leverage the high cost of litigation as a weapon against economic growth.

PAEs impose huge costs on American businesses (at least [\\$29 billion in 2011 alone](#)) that drain funds from job creation. The problem is growing rapidly. PAE suits accounted for 67% of new patent infringement cases in 2013, up 19% from 2012. Over 3700 operating companies were in distinct PAE lawsuits in 2013, a threefold increase since 2006. Many more were threatened. These suits often involve low-quality patents that cover standard features of e-commerce, like online shopping carts, store locators on websites, and shipment notification emails sent to customers. Non-tech companies (including retailers and end-users) are frequent targets of these patents, usually for products that they purchased.

PAEs typically sue on vague, low-quality patents. Most companies have little recourse but to settle with PAEs, even when threatened with invalid patents, because the cost of litigation is so high. For a small- or medium-sized business, defending a patent lawsuit [typically costs \\$1.75 million](#). Because invalidating a PAE's patent through litigation can take years and cost millions, a targeted company faces a no-win situation: it can pay lawyers, the PAE, or both.

Moreover, because the claims of low-quality patents are difficult to interpret, the costs of litigating a low-quality patent can be substantially higher than they would otherwise be. As a result, a business faced with the threat of a patent infringement suit based on a low-quality patent is much more likely to settle.

Accordingly, a crucial step in addressing the PAE problem is for the PTO to improve the quality of the patents that it issues. It is crucial that issued patents be as clear as possible. Clarity of patents allows businesses to determine if their products are infringing, and clear patents also encourage more innovation by giving an incentive to create new, non-infringing products.

We have been pleased to see the Administration's recent efforts at improving patent quality, including increased training for examiners and a pilot program studying the use of glossaries in patents. But there is still much more to do. We encourage the Administration to continue its efforts, and we pledge to work with the Administration, and in particular the PTO, to help find cost-effective ways to raise the quality of issued patents.

It is important to remember, however, that no matter how much the PTO improves the quality of issued patents, PAEs will always be able to leverage the high cost of litigation to extract undeserved payments. That is why patent reform legislation is also desperately needed, and why the House passed its version overwhelmingly.

We thank the Administration for its support for patent reform legislation. We hope that the Administration will continue to work with the House of Representatives and the Senate to produce effective and comprehensive legislation to address the problem of PAEs.

We appreciate your support of these important initiatives.

Sincerely,

A handwritten signature in black ink, appearing to read "E J Black". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Edward J. Black
President & CEO
Computer & Communications Industry Association